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Attorneys for Defendant, Counter-claimant and Cross-claimant Ahava of California, LLC

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SIGNATURE BANK, : X
Plaintiff, :
: 08 Civ. 3893 (NRB) (MHD)
- against - :
**NOTICE OF MOTION
FOR SANCTIONS**
AHAVA FOOD CORP., LEWIS COUNTY DAIRY :
CORP., ST. LAWRENCE FOOD CORP. d/b/a PRIMO :
FOODS, YONI REALTY, LLC, SCHWARTZ AND :
SONS QUALITY DISTRIBUTORS, INC., MOISE :
BANAYAN, ANA BANAYAN a/k/a CHANA :
BANAYAN, REBECCA BANAYAN a/k/a REBECCA :
BARIMYAN a/k/a REBECCA BANAYAN- :
LIEBERMAN, FARIBORZ BANAYAN a/k/a :
AARON BANAYAN, RUBEN BEITYAKOV, :
ARI KATZ, AHAVA OF CALIFORNIA, LLC d/b/a :
AHAVA NATIONAL FOOD DISTRIBUTOR :
and NORTH COUNTRY MANUFACTURING, and :
JOHN DOE COMPANIES 1 through 10, :
Defendants. : X

PLEASE TAKE NOTICE that upon the attached Declarations of Robert W. Hirsh, dated July 3, 2008 and Lawrence C. Fox dated July 3, 2008, the concurrently filed Memorandum of Law, defendant, counter-claimant, and cross-claimant Ahava of California LLC ("Ahava CA") will move this Court before the Honorable Michael Dolinger, United States Magistrate Judge at the United States Courthouse, 500 Pearl Street, New York, New York at a time and place to be designated by the Court, for an Order awarding attorney's fees in the sum of \$124,097.60 against plaintiff Signature Bank ("the Bank") and its attorneys, i.e. Herrick Feinstein, LLP, Mara Levin, David Feuerstein, and John Oleske (collectively "Bank's Attorneys") in order to reimburse Ahava CA for its attorneys fees and costs which it incurred in opposing the Bank's Order to Show Cause for a Preliminary Injunction and for Appointment of Receiver ("the Motion") and in connection with discovery and motion practice relating to the Motion, and for having to file this motion for sanctions.

This motion is made pursuant to:

- a. the court's inherent power to sanction bad faith conduct; and
- b. 28 U.S.C. Section 1927.

This motion is being made because of the following conduct committed by the Bank and the Bank's Attorneys:

- a. they filed and maintained the Motion in bad faith. The Motion was filed and maintained despite the fact that it was devoid of evidentiary support. Among other things, they misrepresented to the Court that the Bank possessed evidence that Ahava CA had impaired collateral in which the Bank had a security interest, thus necessitating the Motion's relief; and,
- b. they disobeyed multiple discovery orders.

This wrongful conduct caused Ahava CA to needlessly incur significant attorneys fees and costs for which it is entitled to recover.

Dated: Beverly Hills, California
July 3, 2008

ROBERT W. HIRSH & ASSOCIATES

By: /s/ Robert W. Hirsh
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- and -

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